

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LOUIS MORRIS, a single male,,

Plaintiff,

v.

JOSHUA RAMBO and JANE DOE RAMBO,
husband and wife and the marital community
comprised thereof,

Defendants.

Case No. C06-5279 FDB

ORDER GRANTING MOTION TO
DISMISS WITHOUT PREJUDICE

This matter comes before the Court on the motion of Defendant United States of America¹ to dismiss for lack of subject matter jurisdiction. The Defendant asserts that this Court lacks jurisdiction under the Federal Tort Claims Act due to Plaintiff's failure to file the requisite administrative tort claim within two years after accrual of his claim. 28 U.S.C. § 2401(b); Cato v. United States, 70 F.3d 1103, 1107 (9th Cir. 1995).

In response, Plaintiff does not dispute that he has failed to file an administrative tort claim

¹Pursuant to the Federal Tort Claims Act, the United states has been substituted as the sole Defendant respect to all of Plaintiff's claims sounding in tort. 28 U.S.C. § 2679(b) and (d).

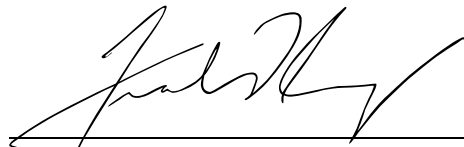
1 and that his complaint is subject to dismissal. Plaintiff request that the dismissal be without
2 prejudice because his active military duty tolls the two year statute of limitations under the Service
3 Members Civil Relief Act, 50 U.S.C. § 521. The United States replies that it has no objection to
4 Plaintiff's request for dismissal without prejudice.

5 ACCORDINGLY,

6 IT IS ORDERED:

7 The United States Motion to Dismiss For Lack of Subject Matter Jurisdiction [Dkt. # 7] is
8 **GRANTED** and Plaintiff's complaint **DISMISSED WITHOUT PREJUDICE**.

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10 DATED this 16th day of August, 2006.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE